

Application No. 09/681,596
Amendment dated April 29, 2004
Reply to Office Action of February 6, 2004

REMARKS

Prior to the Request for Continued Examination and this Amendment, claims 20-29 were pending in this application. Claim 20 was rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,642,698 to Diehl et al. (hereinafter "Diehl") in view of European Patent No. EP 0 251 159 (hereinafter "EP '159"). Claim 21 was objected to as being dependent upon a rejected base claim.

Claims 1-29 are cancelled. Applicant has added claims 30-41. Consequently, after entry of the present amendment, claims 30-41 are pending. The Applicant respectfully traverses the previous rejection and requests reconsideration.

Claim 30 is a new, independent genus claim incorporating the limitations of cancelled claim 20 along with the requirement that "the non-return valves are outside the intake manifold." Claims 31 -36 are dependent claims to a specie comprising the non-return valves being outside the intake manifold within a gasket between the intake manifold and the cylinder head. Claims 31-36 correspond to cancelled claims 22-27. Claims 37-38 are dependent claims to a second specie comprising the non-return valves being outside the intake manifold in the cylinder head. Claims 37-38 correspond to cancelled claims 20-21. Claims 39-40 are new claims further limiting the genus claim. Claim 41 is a new independent claim corresponding to cancelled claim 22. Support for these new claims is found in Applicant's specification in paragraphs 32-39 and FIGS. 1, 2A, 2C, and 2D.

Claim 20 was previously rejected under 35 U.S.C. § 103(a) as being unpatentable over Diehl in view of EP '159. The Examiner stated "that it would have been obvious to locate the check valves in the cylinder head since the check valves of Diehl are adjacent to the collection conduit and EP ('159) teaches placing this conduit in the cylinder head." The Applicant respectfully submits that the combination of Diehl and EP '159 teach only that the collection channel and



Application No. 09/681,596
Amendment dated April 29, 2004
Reply to Office Action of February 6, 2004

valves/openings either *both* be in a manifold or *both* be in a cylinder head. New claims 30-41 place the collecting channel in the intake manifold and the non-return valves located *separately* outside of the intake manifold. The combination of Diehl and EP '159 does not teach that the collecting channel and the non-return valves can or should be located in separate components.^{1/}

CONCLUSION

There being no other objections to or rejections of the claims, the Applicant respectfully submits that claims 30-41 may be passed to allowance. Furthermore, if the Examiner believes that a restriction requirement is appropriate, then the Applicant requests claims 30-36 be considered.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By

Steven G. Parmelee
Registration No. 28,790

May 4, 2004

Suite 1600
120 South LaSalle Street
Chicago, Illinois 60603-3406
(312) 577-7000

^{1/} Because EP '159 is a foreign language reference, the Applicant is unsure whether this reference is disclosing a manifold or a cylinder head. Nevertheless, whether the disclosure of EP '159 pertains to a manifold or cylinder head, the above argument is still valid. Both Diehl and EP '159 merely establish that the collecting channel and valves/openings are both co-located in a manifold *or* are both co-located in a cylinder head. Claims 30-41 provide instead that the collecting channel and non-return valves are in separate components.